

Michigan State Waterways Commission
Regular Meeting

Minutes of the Meeting of
December 3, 2004
U.S. Fish and Wildlife Service
Large Conference Room
East Lansing, Michigan

A regular meeting of the Michigan State Waterways Commission was called to order by Chairman Opolka at 9:00 a.m. on Friday, December 3, 2004, at the U.S. Fish and Wildlife Service, East Lansing, Michigan. The following Commissioners were present:

Frank Opolka, Chairman
Janet Mansfield
Carol B. Oakley
John Winn

The Commissioner listed below participated in the meeting via conference call:

David Giffin

Commissioner Curtis A. Hertel, Sr. was excused.

Resource Management Deputy Mindy Koch and Department of Natural Resources (DNR) Lansing staff were present.

Chairman Frank Opolka introduced the Waterways Commissioners and DNR staff.

Public Appearances

Mr. John Lechner addressed the Commission regarding the Bois Blanc Island Boat Launch. The Commission had previously requested a meeting of the concerned parties. That meeting has not occurred. Mr. Bill Boik explained that he has spoken with the township, Department of Environmental Quality (DEQ), and the Army Corps of Engineers. The township explained that they were working on a modification of the permit and so is the Army Corps of Engineers. The issue should be resolved and the funds released very soon. Commissioner Opolka asked that Bill call him when check is cut.

Minutes

Meeting of October 15, 2004

MOTION: Commissioner Winn moved to approve the minutes of the October 15, 2004 Michigan State Waterways Commission meeting. Commissioner Mansfield seconded the motion and the minutes were unanimously approved.

Commissioner Opolka asked if the Army Corps of Engineers or the Michigan Congressional delegation had been contacted regarding funds for dredging projects. Mr. Boik indicated that the annual meeting with the Army Corps of Engineers is scheduled for January and the letter to the appropriate Congressional delegates will be generated following that meeting.

Old Business

Project Status Report

Mr. Bill Boik utilized a Powerpoint presentation to show the work completed at various sites. The Saginaw Rivermouth boating access site was dredged in 2001. The site experiences a constant battle to keep the area open to the shipping channel. Additional dredging was done in 2004.

The next item presented was a paving project at Pinehill Lake in Jackson County. The site had issues with drainage and maintenance previously. This site provides access to Farwell Lake.

The Cedar River project paving is in place and all contracts have been issued. Some wetlands mitigation is required.

The west arm of Traverse Bay back access is now handicap accessible. The tolerance for this is a 1% grade and staff worked hard to monitor the work to ensure this was achieved.

Commissioner Winn asked about the grade at Walloon Lake. Mr. Boik stated that a similar problem was addressed at another site by putting accessible parking at the ramp rather than with the traditional parking at the top of a hill.

The Leelanau boating access site was discussed. Commissioner Winn mentioned that the Commission and DNR should take care that public access sites are not located where a road dead-ends. Proper signage is an issue for these sites as well as those located near curves in the road.

Final contracts have been issued for the Cedar River boating access site. The sewage lagoon work at the site also affects Wells State Park. If the lagoon is not finished in time for the boating and camping seasons, a pump and haul contract is under consideration.

Mr. Boik introduced Mr. Paul Petersen, who is the harbor manager and Mr. Jordan Byelich who is the boat launch manager.

The Naubinway Harbor project in Garfield Township has been completed, while the project in St. James Township on Beaver Island is almost completed. The Beaver Island project has an anticipated completion date of December 15, 2004. The project involved some dredging around the piers, replacement of docks, upgrading of the roof, and electrical and utility work.

Mr. Boik mentioned that a proposed boating access site is being considered for Cross Village. Some opposition was noted when the township held a public meeting, although

most were in favor of some type of boating access site. Commissioner Winn asked about the availability of parking and restroom facilities. Parking and restroom facilities will be provided.

The Cheboygan Lock and Dam project is ongoing and involves a partnership with the DNR and Great Lakes Tissue Company to regulate the water level on the inland waterway. An agreement is in place with an addendum under way to more readily define roles and payment responsibilities.

The contamination level results were received for the Sterling State Park boating access site dredging project. Based on the contamination levels the Army Corps of Engineers is making a determination about DNR's ability to use the confined disposal facility at Sterling, which would reduce the Department's cost. Commissioner Oakley requested information regarding the Pointe Mouille confined disposal facility and Mr. Boik stated that it may be near capacity and is further away, which would increase the cost of disposal.

Commissioner Giffin asked about the Presque Isle restaurant. Mr. Boik stated that a consulting firm is being sought to evaluate the condition of the building. This request is now with the Department of Management and Budget (DMB) to assign to a consultant. The land exchange proposed for Presque Isle has been denied. Mr. Boik stated that this was due to the fact that it would create an in-holding. Commissioner Winn stated that the Waterways Commission has an obligation to make sure that staff understands the marina will be greatly negatively impacted if the restaurant is not in operation. Commissioner Giffin stated that the Commission should meet with the committee that made the decision. Commissioner Oakley agreed with Commissioners Giffin and Winn. In addition to the importance of the restaurant to the marina, it is the Department's responsibility to provide access to waterways to people who do not own boats; this restaurant assists with that function.

Commissioner Opolka asked that Deputy Director Koch review the decision of the Land Exchange Committee and that staff make sure the facility is retained. The present lease for the restaurant expires in 2007. Deputy Director Koch stated that the Department is committed to a long-term lease arrangement, but must be upfront about the necessary changes to bring the building up to code. Ms. MaryLou Doutsch, president of the Presque Isle Harbor Corporation, thanked the Commission for their support of the restaurant. Her company is not committed to getting rich from the restaurant, but rather to its continuation.

Operations Status Report

Mr. Harold Herta provided an update on items discussed at the previous meeting. The City of Muskegon, Hartshorn Marina, had requested twenty additional seasonal slips for three years. The Commission requested input from local private marinas. Mr. Herta sent letters requesting response to six local private marinas and received three responses consisting of two negative and one positive. Commissioner Giffin opposes the staff recommendation to grant the variance. This would bring their total seasonal slips from seventy-nine to ninety-nine and leave the marina with thirty-three transient slips. Commissioner Oakley commented that the Commission and DNR are supposed to consider the availability of seasonal dockage in the area. Mr. Herta believes

seasonal dockage is available, but the additional income from the seasonal slips would help this marina generate revenue to meet the match requirement on their next grant request.

MOTION: Commissioner Winn moved to deny this request for twenty additional seasonal slips at Muskegon's Hartshorn Marina. Commissioner Giffin seconded the motion and it carried unanimously.

The Department received a letter from the City of Alpena with a status report on their operations and indicating that they are in good shape for the 2005 season.

MOTION: Commissioner Oakley moved that the Commission receive the communication from the City of Alpena and asked staff to draft a response thanking them for their report and for keeping the Commission informed. Commissioner Winn seconded the motion and it carried unanimously.

Commissioner Winn applauds the City of Alpena for what they are attempting to do and suggested the DNR should be more diligent on getting that information from other grant-in-aid facilities. Mr. Herta is preparing a letter for all grant-in-aid facilities regarding procedures for variance requests and will add a statement seeking update letters to the Commission.

Mr. Herta continued with an update concerning the grant-in-aid scoring project. This process will provide a means to rank facilities using specific criteria. DNR staff is also reviewing funding ratio variances, for example instances where a community is seeking funding for a project that exceeds 50/50 for harbors and 75/25 for boating access sites. Items for consideration include: the per capita income of the population, the population base, whether the site is busy, and the type of community the facility is in. Points would be deducted for violations. Staff is attempting to establish this as an objective way to look at how priorities are established. Deputy Director Koch stated that the criteria will come back to the Commission for approval.

Issues were discussed regarding the current reservation system as the contract (with Spherix) expires in December 2005. Mr. Herta believes the biggest problem is related to printing speed and the new contract contains a specific standard for printing. One firm under consideration is Ticket Master/Reserve America. Commissioner Giffin would like Marina Life.com to also be considered.

Chairman Opolka introduced DNR Legislative Liaison Rodney Stokes and welcomed him to the Commission meeting. Chairman Opolka then asked Mr. Byelich about the boating access site at Lake Antoine in Iron Mountain. Mr. Byelich will research this and provide details to Chairman Opolka.

New Business

Overall Budget Review and Capital Outlay Budget Review

Deputy Director Koch introduced Ms. Sharon Schafer, Chief, Budget Support Services. Handouts were distributed to the Commission and staff present, including the fiscal year 2004/2005 operating appropriations bill and some historical information.

Ms. Schafer fully reviewed the handouts with the Commission. One item of discussion was the gas tax. The Department receives about \$18 million annually (2% of the total gas tax) with the waterways fund receiving 80% of that amount (approximately \$15 million). Capital outlay appropriations were reviewed with Ms. Schafer noting that DMB has encouraged DNR to cancel capital outlay projects that are not moving forward within the three years of the appropriation authority.

Deputy Director Koch stated that the Commission's concern is that the capital outlay amounts are going down disproportionately to the operating account. Commissioner Winn indicated that DNR staff has been reduced, revenue is not down, and capital has decreased. Commissioner Giffin requested additional information regarding what items are paid for from the waterways fund. Commissioner Winn asked for information covering a five or six year period including revenue fund balances (with harbor development), boating related salaries and wages, boating related operating costs, and boating related capital outlay projects. He also suggested further review by the Finance Committee. Ms. Schafer explained that the capital outlay appropriations bill has not been reported out as yet. Typically this bill would have been passed before July 4, prior to the legislative recess for the summer.

During discussion of payments to other departments, Commissioner Winn asked for an explanation of payment in lieu of taxes (PILT), which was provided by Deputy Director Koch. The DNR pays two types of taxes: swamp tax and PILT. The swamp tax consists of \$2 per acre paid to local government when the Department acquires property through tax reversion. PILT is more closely aligned to property tax and applies to properties that are purchased by the Department. DNR is the only state department required to pay taxes. Historically the tax payments have been made by the general fund, but now these payments are coming from the restricted funds.

After a lengthy discussion of expenditures, the harbor development fund, waterways fund, and the fund balances, Chairman Opolka thanked Ms. Schafer and requested that the budget information be transferred to the Finance Committee for further review.

Port Austin Commercial Use Request

Mr. Herta explained that two individuals are requesting commercial use seasonal slips in Port Austin. The first is Captain Atwell (wants to run a commercial charter) and the second is Captain Fred Davis (has had a use permit in the harbor along the broadside dockage area). Staff recommends denial of this request because of their reluctance to open the marina to commercial use. Mr. Herta explained that a use permit allows DNR to charge a fee and set conditions while also giving the DNR the ability to control the impact on the facility. If it is logistically possible, Captain Atwell will be offered a use permit and broadside dockage.

MOTION: Commissioner Winn moved to approve the staff recommendation with regard to Port Austin. Commissioner Giffin seconded the motion and it carried unanimously.

City of Marquette (added to the agenda as item C-1)

The material regarding this variance request was distributed as a handout. Mr. Herta stated that Marquette originally asked for increases of 7% and 4%, but amended this request with amounts of 8% and 5%, respectively.

MOTION: Commissioner Winn moved to approve the staff recommendation with regard to the City of Marquette variance request. Commissioner Mansfield seconded the motion and it carried unanimously.

Dredging Priorities

Mr. Bill Boik indicated that the Department's top three dredging priorities are Cedar River, Sebawaing; and Harrisville. Staff is uncertain as to what the Army Corps of Engineers will budget for this year. The meeting to provide this information is scheduled in January and that material will be shared at the next Commission meeting.

Proposed Meeting Schedule for 2005

A proposed meeting schedule was provided with the meeting packet. Chairman Opolka reminded staff and Commissioners that the Thursday afternoons prior to Commission meetings can be utilized for subcommittee meetings.

MOTION: Commission Oakley moved to adopt the proposed meeting schedule. Commissioner Winn seconded the motion and it carried unanimously.

Election of Officers:

MOTION: Commissioner Giffin nominated Commissioner Winn to serve as Chair of the Michigan State Waterways Commission. Commissioner Carol Oakley seconded the motion and it carried unanimously.

MOTION: Commissioner Winn nominated Commissioner Hertel to serve as Vice Chair of the Michigan State Waterways Commission. Commissioner Giffin seconded the motion and it carried unanimously.

MOTION: Commissioner Winn nominated Commissioner Oakley to serve as Secretary of the Michigan State Waterways Commission. Commissioner Mansfield seconded the motion and it carried unanimously.

Chairman Opolka thanked everyone for their participation in the Commission meetings this year while he was Chair.

This meeting of the Michigan State Waterways Commission adjourned at 11:20 a.m.